

Message Text

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PAGE 01 LISBON 05500 140714Z

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SUBJ: NEW BANK LAWS

REF: (A) LISBON 3710; (B) LISBON 3949; (C) LISBON 4604

SUMMARY: NEW LAWS WILL REINFORCE GOP'S CAPABILITY OF
DETERMINING USES TO WHICH PRIVATE BANK CREDIT MAY BE PUT.
PRIVATE BANKERS ON THE ONE HAND WELCOME THE LAWS BECAUSE
THE LAWS SHIFT TO A LARGE EXTENT ANY BLAME FOR WRONG
DECISIONS FROM THEM TO THE GOVERNMENT, BUT THEY PERCEIVE
THAT LAWS MAY MAKE RETURN TO A FREER SYSTEM MORE DIFFICULT
WHEN PRESENT CIRCUMSTANCES NO LONGER PERTAIN. END SUMMARY.

1. GOP INTENDS TO ISSUE SOON A SELECTIVE CREDIT LAW ENABLING
IT TO DIRECT PRIVATE LENDING INTO AREAS WHICH
GOVERNMENT THINKS MOST USEFUL IN PROMOTING NATIONAL ECONOMIC
DEVELOPMENT. IN MEANTIME IT HAS ISSUED A LAW (DECREE LAW NO.
671/74 OF NOVEMBER 29, 1974) SETTING UP MACHINERY THROUGH
WHICH IT CAN QUICKLY ENFORCE THESE NORMS ONCE THEY ARE ES-
TABLISHED. LAW'S PREAMBLE ASSERTS THAT CURRENT EXIGENCIES
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PAGE 02 LISBON 05500 140714Z

OF DOMESTIC AND INTERNATIONAL ECONOMIES MAKE SUCH A POLICY

ESSENTIAL.

2. LAW 671/74 ESTABLISHES WITHIN THE BANK OF PORTUGAL (BP) A CADRE OF OFFICIALS WITH HIGH RANK--EQUIVALENT TO A BP DIRECTOR OR DEPUTY DIRECTOR--WHO WILL BE ASSIGNED TO MAJOR PRIVATE CREDIT INSTITUTIONS (PRIMARILY BANKS, INASMUCH AS STATE-CONTROLLED CREDIT INSTITUTIONS AND SMALL PRIVATE ENTITIES ARE SPECIFICALLY EXEMPTED BY THE LAW). THESE BP DELEGATES WILL HAVE BROAD AUTHORITY TO ATTEND BANK MEETINGS AT ANY LEVEL DEALING WITH CREDIT ACTIVITIES, TO OBTAIN RELEVANT INFORMATION FROM BANK OFFICIALS, AND TO EXAMINE CREDIT DOCUMENTS.

3. THE DELEGATES ARE REQUIRED TO REPORT IMMEDIATELY TO BP ANY DEVIATIONS FROM ESTABLISHED NORMS. BP OR THE MINISTRY OF FINANCE WILL THEN DEAL WITH THE SITUATION, DEPENDING ON ITS NATURE. IN ADDITION EACH DELEGATE WILL SUBMIT MONTHLY REPORTS OF HIS OBSERVATIONS TO BP AND MEET MONTHLY WITH FELLOW DELEGATES TO DISCUSS MUTUAL PROBLEMS AND INTERESTS AND RECEIVE BP INSTRUCTIONS. REPRESENTATIVES FROM STATE-CONTROLLED CREDIT INSTITUTIONS WILL JOIN IN THESE MONTHLY MEETINGS AS A MEANS TO COORDINATE NATIONAL CREDIT ACTIVITIES.

4. REMAINDER OF THE LAW DEALS WITH CRITERIA FOR SELECTION OF DELEGATES, THEIR RIGHTS, RANKS, PRIVILEGES, AND OBLIGATIONS (E.G., SECRECY AND NON-INTERFERENCE IN BANKING ACTIVITIES NOT RELATED TO THEIR FUNCTION).

5. COMMENT: A. DECREE LAW 671/74 AND THE YET UNISSUED LAW ESTABLISHING CREDIT NORMS HAVE THE EARMARK OF MEASURES ADOPTED MORE FOR THEIR DEMONSTRATION EFFECT THAN TO FILL A PRACTICAL NEED. BANKERS SAY THAT BP, THROUGH ITS REDISCOUNTING MACHINERY, ALREADY HAS THE MEANS TO ENFORCE THE GOVERNMENT'S CREDIT OBJECTIVES. THE UNINITIATED, HOWEVER, CAN READ THE NEW LAWS AS AN INNOVATIVE EFFORT BY THE PROVISIONAL GOVERNMENT TO ASSURE THE MOST EFFECTIVE USE OF LIMITED FINANCIAL RESOURCES. BANKERS DO NOT EXPECT THAT THE NORMS LAW WILL PLOW NEW GROUND BUT ONLY REAFFIRM EXISTING CREDIT OBJECTIVES --E.G., ASSISTANCE TO SMALL AND MEDIUM FIRMS--THAT BP IS ALREADY IMPLEMENTING.

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PAGE 03 LISBON 05500 140714Z

B. DESPITE FACT THAT THE LAWS, IN FORM AT LEAST, ARE A NEW ENCROACHMENT ON PRIVATE SECTOR, PRIVATE BANKERS SOMEWHAT SURPRISINGLY WELCOME THEM ON THE GROUNDS THAT IT MAKES BANKS TO A LARGE EXTENT IMMUNE FROM CRITICISM ABOUT THEIR CREDIT DECISIONS. LAWS IN EFFECT SHIFT MUCH OF BURDEN OF DECISION-MAKING TO BP AND MINISTRY OF FINANCE. WHILE BANKERS RATHER PLEASED ABOUT THIS UNDER EXISTING CIRCUMSTANCES, THEY DO PERCEIVE THAT LAWS MAY MAKE IT DIFFICULT

TO RETURN TO LESS ENCUMBERED SYSTEM WHEN THESE CIRCUMSTANCES

CHANGE.

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